

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-02/17
Date: 7 May 2021

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding Judge
Judge Tomoko Akane
Judge Antoine Kesia-Mbe Mindua

SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN

Public

Addendum to request to file a consolidated response

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor
Mr James Stewart

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar
Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other
Ms Spojmie Ahmady Nasiri
Ms Katherine Gallagher
Ms Megan Hirst
Ms Margaret L. Satterthwaite
Mr Steven Powles

1. Since the Prosecution filed its request to file a consolidated response¹ to the submissions of persons represented by Ms Nasiri² and Ms Gallagher *et al.*,³ the Prosecution has been notified of a further submission by counsel who represented victims for the purpose of article 15(3) in the previous interlocutory appeal proceedings in this situation, led by Mr Powles (“Powles Submissions”).⁴

2. The procedural status of the Powles Submissions appears to be the same as the Gallagher *et al.* Submissions, insofar as the Powles Submissions are likewise styled as a “response” to the Prosecution Notice filed before the Pre-Trial Chamber, yet in the Prosecution’s respectful view should actually be considered a fresh motion, in light of their content.⁵ For the same reasons as before, the Prosecution incorporates by reference its request to respond—or, in the alternative, to reply—to these submissions in a single consolidated response, together with the Nasiri Submissions and Gallagher *et al.* Submissions.⁶

3. Given the increased scope of the consolidated response, however, the Prosecution also amends its existing request⁷ by:

- Proposing to file a single consolidated response to the Nasiri Submissions, Gallagher *et al.* Submissions, and Powles Submissions by Tuesday 18 May 2021—which is the date on which any response to the Powles Submissions

¹ [ICC-02/17-147](#) (“Prosecution Request”)

² [ICC-02/17-143-Anx1](#) (“Nasiri Submissions”).

³ [ICC-02/17-146-Anx](#) (“Gallagher *et al.* Submissions”).

⁴ [ICC-02/17-148-Anx](#) (“Powles Submissions”). The Prosecution further notes that the cover filing by which the Registry transmitted the Powles Submissions also refers in the distribution list to additional counsel who participated in the previous interlocutory appeal proceedings in this case, but who are not known by the Prosecution to represent persons seeking to make submissions in the instant proceedings. *See* [ICC-02/17-148](#), p. 2. To any extent that additional submissions have been filed with the Registry, but not yet notified to the Prosecution, this request may require further modification accordingly.

⁵ *See* [Powles Submissions](#).

⁶ *See* [Prosecution Request](#), paras. 3-4.

⁷ *See* [Prosecution Request](#), para. 6.

would be due under regulation 34(b)—rather than Monday 17 May 2021;⁸
and

- Proposing to file a single consolidated response not exceeding 23 pages of argument, rather than the 20 pages of argument original proposed, to take account of the additional matters which may need to be addressed in light of the Powles Submissions.

4. Mindful of the relatively short deadline, and the closure of the Court for holidays during some of the intervening period, the Prosecution respectfully requests this matter to be decided on an expedited basis.



Fatou Bensouda, Prosecutor

Dated this 7th day of May 2021

At The Hague, The Netherlands

⁸ See [Regulations of the Court](#), regulation 34(b).